

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS
COMMITTEE MEETING
October 20, 2009 at 1:00 P. M.
Room 445, Capitol Building, State Capitol Complex**

Members Present: Rep. Ron Bigelow, Co-Chair
Sen. Lyle W. Hillyard, Co-Chair
Sen. Peter C. Knudson, Vice Chair
Rep. Bradley G. Last, Vice Chair
Rep. David Clark, Speaker
Rep. Kevin S. Garn
Rep. James R. Gowans
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Rep. David Litvack
Rep. Rebecca D. Lockhart
Sen. Karen Mayne
Rep. Carol Spackman Moss
Sen. Wayne L. Niederhauser
Sen. Luz Robles
Sen. Ross I. Romero
Rep. Jennifer M. Seelig
Sen. Michael G. Waddoups, President

Members Excused: Sen. Scott K. Jenkins
Rep. Brad L. Dee

Staff Present: Jonathan Ball, Legislative Fiscal Analyst
Steven Allred, Deputy Director
Greta Rodebush, Secretary

Speakers Present: Tenielle Young, Governor's Office of Planning and Budget
Danny Schoenfeld, Legislative Fiscal Analyst
Russell Frandsen, Legislative Fiscal Analyst
Dr. David Sundwall, Department of Health
Michael Hales, Department of Health
Dr. Harper Randall, Department of Health
Mark Babitz, Department of Health
Gary Syphus, Legislative Fiscal Analyst
Tom Patterson, Utah Department of Corrections
Dr. Andrea Wilko, Legislative Fiscal Analyst
Spencer P. Eccles, Governor's Office of Economic Development
Mark Bleazard, Legislative Fiscal Analyst
Amanda Smith, Department of Environmental Quality
Dr. Thomas Young, Legislative Fiscal Analyst
Rod Marelli, Tax Commission
Steven Allred, Legislative Fiscal Analyst

Note: A copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order/Approval of Minutes

Committee Co-Chair Bigelow called the meeting to order at 1:35 p.m. He noted that Sen. Jenkins asked to be excused, and he welcomed Sen. Wayne L. Niederhauser as the newest member of the committee.

2. Federal Funds/ARRA/Non-Federal Grants Reports

Danny Schoenfeld, LFA, called attention to the memorandum, "Federal Funds Update," dated October 13, 2009. In response to questions raised about certain state match federal grants during the September Executive Appropriations Committee meeting, the update provides some explanations for programs overseen by the Department of Natural Resources and the Department of Human Services.

Mr. Schoenfeld further noted the memorandum, "ARRA Progress," dated October 13, 2009 and three attached reports from the Governor's Office of Planning and Budget (GOPB). These reports include the total awards made to state agencies as of September 30, 2009, a summary of Recovery Act Funds awarded to Utah including jobs saved or created, and the reporting process used by GOPB.

Tenielle Young, Governor's Office of Planning and Budget, presented the Federal Funds/ARRA/Non-Federal Grants Reports through September 30, 2009. There were no new federal grants and two reapplications of existing grants requiring legislative action. The Governor's Office approved two new federal grants and two reapplications of existing grants.

Ms. Young presented the ARRA Federal Funds Report. There were no new grants and no reapplications of existing grants requiring legislative action. The Governor's Office approved seven grants and no reapplications of existing grants.

Ms. Young presented the Non-Federal Grants Report. There were no new grants and no reapplications of existing grants requiring legislative action. Similarly, there were no new grants and no reapplications of existing grants approved by the Governor's Office.

Co-Chair Hillyard inquired about this year's funding status for the KSL Radio Quarters for Christmas. Ms. Young stated that she would follow up on this.

Co-Chair Bigelow recognized Co-Chair Hillyard.

MOTION: Co-Chair Hillyard moved to approve two reapplications of existing federal grants requiring legislative action, as shown on page 3, of the packet dated today, October 20, 2009. The motion passed unanimously with Speaker Clark, Rep. Last, and Rep. Litvack absent for the vote.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion on the minutes.

MOTION: Co-Chair Hillyard moved to approve the minutes of the Executive Appropriations Committee meeting held on September 15, 2009. The motion passed unanimously with Speaker Clark, Rep. Last, and Rep. Litvack absent for the vote.

Pres. Waddoups expressed his appreciation for the extra program information provided in the ARRA Federal Funds Report.

3. Agency Plans for Implementing FY 2011 Base Budget Allocations: Service Impacts, Employee Impacts, and Strategies

a. Department of Health

Russell Frandsen, LFA, referenced the spreadsheet, "FY 2010 Adjustments - General Fund, Education Fund, and 'Proxies'" and the Department of Health's narrative summary, "2009/10 Budget Reduction Implementation Report Summary - 10/20/2009," behind Tab 3a.

Mr. Frandsen clarified that the spreadsheet does not reflect certain funding nuances, i.e., federal Medicaid match changes, the use of General Fund restricted accounts, and some money from Transportation Restricted Funds. Total FY 2010 ongoing reductions are \$48.8 million and total FY 2010 one-time backfill adjustments are \$51 million.

Mr. Frandsen highlighted some of the largest FY 2011 budget reductions (backfilled in FY 2010) for the Department of Health: \$1 million reduction to Children with Special Health Care Needs Clinics; \$14.6 million in ongoing funding for Medicaid Caseload Growth; \$7.7 million in ongoing funding for Medicaid Inflation; and \$14.1 for Medicaid Providers.

Dr. David Sundwall, Executive Director, Department of Health, addressed the committee. He was assisted by Michael Hales, Director, Division of Health Care Financing.

Dr. Sundwall reviewed budget reductions, mitigation strategies, and impacts to the divisions within Public Health: Community and Family Health Services, Health Systems Improvements, and Epidemiology & Laboratory Services, as well as the Executive Director's Office, Center for Health Care Data, and Local Health Departments. Overall, the Department of Health's budget has been reduced by about \$53 million with a 5percent reduction in the workforce or 45 FTE.

Dr. Sundwall stated that despite these budget constraints, he did not feel that great harm has been done to the services the Department provides.

Pres. Waddoups inquired about the disproportionate reductions in Medicaid hospital rates and pediatric dentistry. Dr. Sundwall offered to address this issue during the discussion on Medicaid.

Rep. Seelig asked about the 1,000 children who would need to find other sources of care to replace Children with Special Health Care Needs Clinics. She also asked if the Center for Disease Control (CDC) has staff or service delivery benchmarks that Utah follows to ensure good public health.

Dr. Sundwall explained that the \$1 million cut to the Children with Special Health Care Needs Clinics will go into effect in FY 2011. Since most of the 1,000 children are on Medicaid or have private insurance, they will be able to use Primary Children's Hospital as an alternative. He pointed out that the itinerant service clinics have not been cut.

Dr. Harper Randall, Medical Director, Children with Special Health Care Needs, named five specific clinic areas that could be potentially closed: Vernal Itinerant Clinic, Provo Neonatal Follow-up Clinic, Able Program, Neurology Clinics in Logan and St. George, and Orthopedic Clinics in Salt Lake, Ogden, and Provo.

Dr. Sundwall stated that the Division of Epidemiology & Laboratory Services meets CDC's guidance standards.

Sen. Robles asked if the Baby Watch Early Intervention Program has been impacted by budget cuts. Mark Babitz, Director, Division of Health Systems Improvements, stated that Baby Watch Early Intervention Program was cut last year but received ARRA funding which will allow it to remain whole for the next couple of years.

Sen. Jones observed that the number of dentists participating in the Medicaid provider reimbursement decreased by 25 dentists in a three-month period. She expressed concern that this rate will continue and that families will not have access to services.

Dr. Sundwall explained that because ARRA protected eligibility categories, Medicaid budget reductions had to be sought in either provider reimbursement or optional services. In FY 2010, Medicaid's total budget was reduced by less than \$150 million (\$42.5 million - General Fund, \$106 million - Federal Funds.) Provider reimbursements to dentists were cut by 25percent in FY 2010 and are scheduled for an additional 8 percent in FY 2011. Dr. Sundwall explained that because adult dental services are no longer covered, pediatric dentistry felt the full impact.

Michael Hales stated that pediatric dentists and dentists treating pregnant women received large appropriation increases for provider inflation in October 2007. Budget reductions were targeted at specific provider groups to rollback those increases. Dentists are hoping that these budget reductions can be mitigated in the upcoming General Session.

Sen. Jones emphasized that provider reimbursement is an area that we really need to focus on.

Dr. Sundwall stated hospitals reimbursements were cut by 15percent in FY 2010, and had it not been for some one-time funding relief in the May Special Session, cuts would have been higher. He indicated that the Hospital Association is looking at an alternative way of financing Medicaid reimbursement. Pharmacists have a more modest cut of 10 percent in FY 2010. When the

reimbursement rates are low, the state runs the risk of losing providers and reducing access to services.

Sen. Robles asked what the Department of Health is doing to address the access issue for children needing dental care. She also asked about the additional costs associated with emergent care treatment.

Dr. Sundwall responded that the Center for Health Data monitors access to services and provides periodic updates of who is getting what care. He suggested that one way to provide adults and children with basic preventive dental care is to allow dental hygienists to do some of the work that dentists do. Dentists and state clinics have a difficult time providing care without any reimbursement.

Dr. Sundwall briefly discussed budget cuts to Optional Services that included eliminating Medicaid coverage for occupational therapy, physical therapy, speech therapy, hearing aids, eyeglasses and chiropractic services. He pointed out that physical therapy and occupational therapy services were restored with one-time money in FY 2010.

Dr. Sundwall stated that the Department has addressed difficult budget challenges without "dropping the ball" on services for the State in general.

b. Departments of Corrections

Gary Syphus, LFA, introduced the Department of Corrections' budget adjustments for FY 2010, referencing the report on page 2, behind Tab 3, and the spreadsheet behind Tab 3b.

Tom Patterson, Executive Director, Utah Department of Corrections, gave a brief overview of the Department's budget implementation strategies for FY 2010 and FY 2011. In identifying guiding principles of accountability, the Department determined that it would be important to maintain public safety, ensure offender success, and impact staff as little as possible.

Budget considerations took into account feedback from staff. Mr. Patterson commented on how compelling staff's commitment is to saving the jobs of fellow co-workers. The Department decided to consider furloughs instead making cuts in pay.

Savings have been realized in other areas such as issuing fewer stamps to inmates, paring down uniform allowances, reducing staff meals, and eliminating 172 positions, many through unfilled vacancies and retirement.

Mr. Patterson stated that the Department had received permission from the Governor to increase retirement incentives which will generate \$2 million in ongoing savings.

Mr. Patterson stated that public safety has not been compromised even though three FTEs and six probationary Adult Probation & Parole agents were laid off.

The Department achieved efficiencies by eliminating a food contract for community centers and replacing it with food services in the culinary program at the Draper Prison site. With the loss of the Institutional Parole Office, responsibilities were absorbed by other employees and management.

Mr. Patterson noted that the case plan process ensures the Department deals successfully with the prisoners.

In addition to reductions in treatment for sex offenders and mental health, and cuts to the Drug Offender Reform Act (DORA), Mr. Patterson expressed concern about the loss of inmate beds with the elimination of Gunnison West One Pod - 192 beds, Parole Violators Center - 300 beds, Transition Center - 40 beds, and the Diagnostic Center - 80 beds. There are no planned beds coming on line right now. With the prison population increasing by 21 inmates per month, the prison is going to hit operational capacity fairly soon.

Mr. Patterson pointed out that the funding cap on contracted county beds limits the number of beds available for inmates to 1,225.

Co-Chair Hillyard stated that he has heard from constituents who are concerned about the closing of the Diagnostic Center. Co-Chair Hillyard commented on the merits of offering a short term alternative to incarceration. He asked what it would cost to restore the program.

Mr. Patterson explained that by closing the Diagnostic Center, the Department realized a savings just less than \$500,000. The program was also funded by approximately \$700,000 in CCJJ grant monies. In order to fully restore the program, \$1.2 million would be needed.

Mr. Patterson stated that he has received a lot of feedback from the courts that the Diagnostic Center was a valuable program.

Sen. Jones asked if the prison growth rate of 21 inmates per month is higher than average. She also inquired about the role of substance abuse plays in incarceration. Mr. Patterson responded that substance abuse is one of the root causes for criminal behavior and that most inmates require treatment. Projections show that the inmate population will continue to grow at a rate of 14 inmates per month. However, since June, the rate has increased to 21 inmates per month.

Rep. Litvack stated that it is important to not lose ground on offender success. He asked how the Department is measuring the impact of the budget cuts on offender success. Mr. Patterson stated that they typically measure the number of inmates, parolees and probationers going into treatment. Right now fewer are going into treatment, which creates delays in the number of individuals being seen by the Board of Pardons and Parole, and eventually being released. He noted that because fewer inmates are able to go into treatment, their incarceration rates are longer.

Rep. Litvack asked how the current growth rate in prison population compares with the number of inmates being released per month. Mr. Patterson clarified that the growth rate of 21 inmates per month takes into account the number of inmates that have been released.

Rep. Litvack asked what percentage of inmates are returning to prison because of a parole violation as opposed to committing a new crime. Mr. Patterson stated that this ties into the concern over the loss of the Parole Violator Center which provided a 300 short term bed facility for people who commit technical violations. Parolees are now going back to the prison. Reports indicate that 25 to 30 parolees per week are returning to prison due to technical violations.

Mr. Patterson was optimistic about the Department's ability to maintain public safety and insure offender success.

c. Governor's Office of Economic Development

Dr. Andrea Wilko, Chief Economist, LFA, called attention to the report behind Tab 3, and the spreadsheet behind Tab 3c, detailing the Governor's Office of Economic Development's (GOED) budget implementation plan for FY 2010 and FY 2011.

Dr. Wilko noted that the FY 2011 implementation plan was fully implemented in FY 2010.

Spencer P. Eccles, Executive Director, GOED, addressed the committee. He highlighted a number of budget reductions within the Administration, Tourism and Film, Business Development, and Pete Suazo Utah Athletic Commission line items. Budget decisions were evaluated using a balanced scorecard approach.

Overall, personnel reductions in FY 2010 included 4.5 FTEs.

In Administration, reductions included limiting travel and conferences to mission essentials, reducing computer counts and the need for items requiring ongoing services (telephone lines/servers/printers), reevaluating memberships, and leveraging the costs of marketing Utah businesses.

In Tourism and Film, contracted services were renegotiated, updating of a new travel guide and reprinting of the existing travel guide was postponed, and cash incentives were reduced.

In Business Development, three account executives were eliminated through retirement, an unfilled vacancy, and elimination of two programs - Talent Acquisition Program and Technology Parks. In addition, funding was reduced for selected grant programs such as the children's programs and Center of Excellence and Business Resource Centers that provides outreach to the rural communities.

For the Pete Suazo Utah Athletic Commission, the number of long distance events has been reduced, and workload growth from increased sporting events requiring regulation has been absorbed. In FY 2011, a backfill of \$13,500 will go away. Since there is only one FTE for this program, the commission will need to either decrease the number of events or reassess their fee schedule and hire additional assistance.

Mr. Eccles mentioned a number of legislative priorities that received one-time funding for economic development will need to be addressed in the future.

Mr. Eccles stated that he looks forward to working with the Legislature to improve the economy of the state.

Rep. Moss asked if the Motion Picture Incentive Fund is reflected in the budget and about federal stimulus money. Dr. Wilko explained that the Motion Picture Incentive Fund is a tax credit post performance rebate program that was funded by federal stimulus money. While the Fund does not show up in the budget, revenues will be adjusted down accordingly. Dr. Wilko noted that revenues are \$7.5 million over a two-year period.

d. Department of Environmental Quality

Mark Bleazard, LFA, gave a brief introduction to the Department of Environmental Quality's budget adjustments for FY 2009 and FY 2010, referencing the report on page 5, behind Tab 3, and the spreadsheets and Department's Summary behind Tab 3d.

Mr. Bleazard stated that the Department of Environmental Quality's base budget was reduced by 17 percent in FY 2009 and 23.7 percent in FY 2010. While there was no backfill of federal or state funds in FY 2010, the Legislature approved ongoing increases of \$275,000 in departmental fees to partially offset reductions in the General Fund.

Amanda Smith, Executive Director, DEQ, directed her remarks to implementation strategies, service impacts, and impacts to employees.

Ms. Smith stated it has been important to maintain primacy on federal programs. In addition, she stated that cuts to the six different divisions were done equitably, and that General Funds were balanced to match federal grants and revenue from fees and permits.

DEQ Divisions made the following adjustments: reduced instate and out-of-state travel, reduced contracts for studies and consultants and services, delayed purchasing and extended maintenance of equipment, reorganized support services within the Executive Director's office, and eliminated 20 FTEs through vacancies and retirement.

Ms. Smith noted that these reductions have impacted services in terms of timeliness and responsiveness to customers, i.e., companies to whom DEQ issues permits and licenses throughout the state. DEQ has also had to prioritize customer demands for air monitoring requests, reduce inspection frequencies, and extend business assistance to help companies stay in compliance.

With the elimination of FTEs, employees have been impacted as well. Work has been redistributed and managers have taken on larger workloads. One district engineer position servicing a local health department has been eliminated in the Cedar City area.

Ms. Smith stated that overall, DEQ has absorbed the cuts and continues to meet its mission. The Department is looking at ways to further streamline services to meet the needs of customers and stakeholders. Ms. Smith stated that the Department has the added responsibility of promulgating rules and regulations being generated by the new federal administration.

Rep. Seelig asked for further explanation on the Division of Air Quality's elimination of three vacant positions and reduced purchases of new or replacement monitoring equipment that could slow air quality database equipment.

Rep. Seelig asked Ms. Smith to clarify the distinction between customers and stake holders.

Rep. Seelig further asked how budget cuts are impacting services to companies holding permits compared to individuals who might make complaints about air quality.

Ms. Smith explained that inadequate equipment at the Air Monitoring Center, compromises the Department's ability to accurately monitor and evaluate air quality. Customers and stake holders are terms used interchangeably. Customers refer to the public and entities issued permits and licenses. Stakeholders refer to broader interest groups and companies that are interested in regulations and in what the Department is doing. Finally in response to Rep. Seelig's service impact question, Ms. Smith indicated that the Department is responsive to all inquiring parties.

e. Tax Commission

Thomas Young, LFA, referred to the written information for the Tax Commission's budget implementation plan on page 6, behind Tab 3, and the spreadsheet behind Tab 3e. Mr. Young noted that all budget adjustments have taken place and that the Tax Commission did not receive any one-time backfill monies.

Rod Marelli, Executive Director, Utah State Tax Commission, recognized Julie Alsop, Budget Director, and Pam Hendrickson, Commission Chair, who were in attendance.

Mr. Marelli outlined several budget efficiencies and reductions for FY 2010. The Tax Commission eliminated 30 FTEs spread throughout the agency. The largest cuts were in the Auditing and Taxpayer Services Divisions. Efficiencies were achieved by sending out fewer tax booklets and encouraging the public to file tax returns electronically. The Tax Commission will be asking the Legislature in the upcoming session to further require practitioners to file income tax returns electronically which will eliminate the processing of bar codes.

Mr. Marelli stated that the Tax Commission has achieved great success with the motor vehicle electronic registration system.

Mr. Marelli expressed concern about the lack of enforcement and the impact this will have on the filing and paying of taxes. He mentioned one budget cut that will occur next spring, the reduction of seasonal employees that help process income tax returns. He anticipates that this will slow down deposits and refunds to constituents.

Rep. Seelig asked if there are any benchmarks in place to determine how Utah fares in the collection of taxes as compared with other states. She also asked if there are any areas for improvement. And finally, with lesser levels of enforcement, Rep Seelig inquired if there are any noteworthy or substantial penalties that can be put into place to encourage voluntary compliance.

Co-Chair Bigelow recommended that the Tax Commission be given the opportunity to prepare a short written report in response to Rep. Seelig's questions. The report would be included for informational purposes in next month's meeting.

Rep. Seelig agreed to the suggestion.

Sen. Niederhauser reported that the Revenue and Taxation Committee is already working on the tax penalty issue. The Committee has found that many of the penalties are beyond what the IRS charges and recommends that penalties not exceed the IRS threshold.

4. Request for Proposals - Actuarial Services

Steven Allred, LFA, stated that the Retirement and Independent Appropriations Subcommittee is proposing some changes to the Utah Retirement System. As a result, the subcommittee wants to make sure that the base data they use is entirely accurate. The subcommittee has proposed contracting with an independent actuarial firm to give a secondary review of the data provided by Utah Retirement Systems.

Mr. Allred stated that the purpose of this agenda item is to determine if the committee would like to authorize the Office of the Legislative Fiscal Analyst to spend staff time in issuing a Request for Proposal (RFP), and the expenditure for the selected contractor.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved that the Executive Appropriations Committee authorize the Office of the Legislative Fiscal Analyst to prepare a Request for Proposal (RFP) for an independent actuarial review of the data provided by the Utah Retirement System to be paid within LFA's existing budget.

Sen. Romero asked if this is a duplication of effort. Mr. Allred explained that URS provides data and has an actuary that reviews their data and provides information as well. This would be "checking the checkers" to ensure that those making decisions on major changes to the retirement system fully understand the impact of those decisions.

In summation, Co-Chair Hillyard stated that Utah's retirement funding is a major issue and that the Retirement and Independent Entities Appropriations Subcommittee felt that an independent review would be helpful in making decisions.

A vote was taken on the motion. The motion passed unanimously.

5. Other Business

Co-Chair Bigelow directed the committee's attention to four written reports found behind Tab 5: (1) Quality Growth Commission Report on McAllister Funds; (2) Health Report on Grants for Bleeding Disorders; (3) USTAR Annual Report; and (4) UDC Report on Daily Incarceration Rate.

Co-Chair Bigelow reiterated that since last month's meeting, there has been nothing to indicate that we will be anywhere except equal to or little less than in revenue for the upcoming year. Therefore, no agency should plan on receiving large influxes of additional revenues to restore them to their previous positions. On the contrary, it appears that agencies may need to look at possible reductions.

Co-Chair Bigelow mentioned that follow up is taking place on last month's request from the Department of Human Services (DHS) for proposals for policy changes on how to address continuing implementation of budget reductions. He indicated that the EAC Co-Chairs, GOPB, and Co-Chairs of the Health and Human Services Appropriations Subcommittee have been engaged in these discussions.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:12 p.m.